

**THIS DECISION HAS BEEN APPEALED. THE FOLLOWING  
IS THE RELATED SOAH DECISION NUMBER:**

**SOAH DOCKET NO. 453-05-1113.M5**

MDR Tracking Number: M5-04-3030-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution - General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division (Division) assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on May 13, 2004.

The Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity. The IRO agrees with the previous determination that the prescriptions for hydrocodone, Neurontin, and Celebrex were not medically necessary. Therefore, the requestor is not entitled to reimbursement of the IRO fee.

Based on review of the disputed issues within the request, the Division has determined that fees were the only fees involved in the medical dispute to be resolved. As the treatment listed above were not found to be medically necessary, reimbursement for dates of service from 05-14-03 to 09-24-03 is denied and the Division declines to issue an Order in this dispute.

This Decision is hereby issued this 7<sup>th</sup> day of September 2004.

Patricia Rodriguez  
Medical Dispute Resolution Officer  
Medical Review Division

PR/pr

**NOTICE OF INDEPENDENT REVIEW DECISION**

**Date:** August 3, 2004

**RE:**

**MDR Tracking #:** M5-04-3030-01

**IRO Certificate #:** 5242

\_\_\_\_\_ has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The Texas Workers' Compensation Commission (TWCC) has assigned the above referenced case to \_\_\_\_\_ for independent review in accordance with TWCC Rule §133.308 which allows for medical dispute resolution by an IRO.

\_\_\_\_\_ has performed an independent review of the proposed care to determine if the adverse determination was appropriate. In performing this review, relevant medical records, any documents utilized by the parties referenced above in making the adverse determination and any documentation and written information submitted in support of the appeal was reviewed.

The independent review was performed by a Physical Medicine/Rehabilitation reviewer (who is board certified in Physical Medicine/Rehabilitation) who has an ADL certification. The reviewer has signed a certification statement stating that no known conflicts of interest exist between him or her and any of the

treating physicians or providers or any of the physicians or providers who reviewed the case for a determination prior to the referral to for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to this case.

**Submitted by Requester:**

- “To Whom It May Concern” letter dated 09/26/03 from \_\_\_\_
- Medical examination reports and followup examinations of \_\_\_\_ dated 02/21/96, 08/18/03, 05/14/03, 02/19/03, 09/24/02, 04/03/02, 02/20/02, 12/19/01
- Lumbar x-ray reports dated 04/03/02
- Lumbar MRI dated 11/14/01
- Lumbar x-ray dated 11/14/91
- CT scan of the lumbar spine dated 11/18/01.

**Submitted by Respondent:**

- Letter from \_\_\_\_ dated 07/20/04 addressed \_\_\_\_
- Summary of the carrier’s position from \_\_\_\_ to \_\_\_\_ at TWCC Medical Review Division
- Table of Disputed Services from the carrier
- Pre-authorization records and peer reviews upon which the carrier’s position for denial of medication necessity was based

**Clinical History**

The medical information indicates that this individual, \_\_\_\_, had sustained a work-related injury \_\_\_\_. She was lifting and developed low back pain with radiation into the leg. She had a past history of spine surgery at L4-5 and L5-S1. Secondary to failure of conservative treatment, she underwent additional surgery. The most recent surgery is indicated to have taken place 11/15/01 at the L3-4 level. This appears to have followed an additional injury of \_\_\_\_\_. The patient has been under the care of \_\_\_\_\_, who, following the surgery of 2001, followed the patient on a regular basis with renewal of medications consisting of Neurontin, hydrocodone, and Celebrex.

**Requested Service(s)**

Were the prescriptions, hydrocodone, Neurontin, and Celebrex, from 05/14/03 to 09/24/03 medically necessary?

**Decision**

I am in agreement with the insurance carrier that the prescription medications of hydrocodone, Neurontin, and Celebrex for the time period 05/14/03 until 09/24/03 were not medically reasonable and necessary.

**Rationale/Basis for Decision**

I have reviewed the medical examination and followup records from \_\_\_\_\_ for the time period indicated above. I did not find any periodic, specific, objectively measured record of the effectiveness of the three medications in question for the patient’s chronic lumbar pain syndrome or for the chronic post-surgical pain. The National Pain Education Council indicates that as a guideline for the treatment of chronic pain,

it is necessary to evaluate various factors. Among those factors is the necessity for periodically having objective measures of medication effectiveness in order to support the medical necessity of ongoing medications. As the long-term administration of prescription medications, including hydrocodone, Neurontin, and Celebrex, has significant adverse side effects to a patient's general medical condition, it is necessary to have objective findings to support the benefit to the patient to avoid unnecessary patient medical injury.

The medications in question are not objectively measured for their effectiveness in any of the reports noted other than the non-objective comments in the followup reports that the medication "has worked wonderful for her." This statement does not provide any objective measure for pain relief or functional improvement.

Additionally, there is little to no specific ongoing record of the amount of medications the patient is taking, nor is there any indication in the treatment plan for the specifics of the medication prescriptions. I also found no narcotic contract or medication contract that \_\_\_\_ had with the patient, which is a requirement of ongoing prescription medication usage in the treatment of chronic pain conditions.

In the followup medical examination from \_\_\_\_ dated 02/19/03 (three months before the medication reimbursement issue begins) the following statement is noted under the "Treatment Plan" portion of the doctor's followup: "We will refill her Celebrex and Neurontin and decrease her hydrocodone to the hydrocodone 5 as she wants to wean herself off narcotics and she has only been taking them very rarely any more. Return appointment in eight weeks. We will eventually wean her off narcotics." It is clearly indicated that as of 02/19/03 the patient desired to be weaned from her narcotic medication, and \_\_\_\_ records indicated that they were going to assist her in doing this.

It is also noted that the provider, \_\_\_\_, has a significant potential conflict between the physician provider and the pharmacy provider (the pharmacy). It is noted that the treating and prescribing physician for these medications for this patient has a 50% ownership of the \_\_\_\_\_. This is noted in the financial disclosure summary of TWCC.

In accordance with Commission Rule 102.4(h), I hereby verify that a copy of this Independent Review Organization (IRO) Decision was sent to the patient, the requestor, the insurance carrier, and TWCC via facsimile or U.S. Postal Service from the office of the IRO on this 4<sup>th</sup> day of August 2004.